

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

SHAYARTO PERKINS,

Plaintiff,

Case No. 2:11-cv-23

v.

Honorable R. Allan Edgar

CHARLIE MCCARTHY, et al.,

Defendants.

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**REPORT AND RECOMMENDATION**

Plaintiff Shayarto Perkins filed this civil rights action pursuant to 42 U.S.C. § 1983 against Defendants Assistant Food Supervisor Charlie McCarthy, Corrections Officer J. Tervo, Corrections Officer D. Pelkola, Assistant Deputy Warden Unknown Edlund, Assistant Deputy Warden James Alexander, Deputy Warden Robert Napel, Warden Gerald Hofbauer, Doctor Bienvenido Canlas, Corrections Officer Unknown Sohlden, Corrections Officer K. Isaacson, Food Supervisor Herbert Barry, Assistant Food Supervisor Joseph Neher, Food Steward Unknown Maki, Food Steward Unknown Hodges, Chaplain Keith Snyder, Acting Inspector Unknown Petaja, Assistant Resident Unit Supervisor T. Pertu, Assistant Deputy Warden William Jondreau, Deputy Warden Jeffrey Larson, Grievance Coordinator S. Raymond, Northern Regional Prison Administrator Jeri-Ann Sherry, and Lieutenant Unknown Yankovich.

Plaintiff has filed a request for a temporary restraining order (Docket #11), alleging that individuals named Jacobsen, Collins, Rule, Ceroni, Delene, LeClaire, Sacket, Tussing and McKeon assaulted him and denied him necessary medication. However, these individuals are not named as Defendants in this action. Nor are the allegations asserted in Plaintiff's motion raised in

his complaint. The court has no authority to grant injunctive relief against individuals who are not parties to this action. Therefore, the undersigned recommends that Plaintiff's request for relief against Jacobsen, Collins, Rule, Ceroni, Delene, LeClaire, Sacket, Tussing and McKeon be denied.

Plaintiff also makes a conclusory request for an order instructing Defendants in this action to cease violating Plaintiff's constitutional rights. However, Defendants are required to avoid violating the Constitution without the issuance of such an order. The undersigned concludes that Plaintiff's motion does not establish that Plaintiff will suffer irreparable harm if the requested relief is not granted.

Because Plaintiff has failed to meet the heavy burden establishing the need for injunctive relief, I recommend that Plaintiff's motion for a temporary restraining order and preliminary injunction be (Docket #11) denied.

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within fourteen (14) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3(b). Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley

TIMOTHY P. GREELEY

UNITED STATES MAGISTRATE JUDGE

Dated: November 22, 2011